



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**SENT VIA ELECTRONIC MAIL**

Robert D. Mowrey, Esq.  
Kazmarek Mowrey Cloud Laseter, LLP  
1230 Peachtree Street, N.E.  
Suite 900  
Atlanta, GA 30309  
bmowrey@kmcllaw.com

Dear Mr. Mowrey:

Pursuant to Section 114(a)(1) of the Clean Air Act (the Act), 42 U.S.C. § 7414(a)(1), your client, Hexion Inc. (Hexion), is hereby required to provide the U.S. Environmental Protection Agency with information relating to the Hexion facility located in Riegelwood, North Carolina. This information is needed to determine whether the Hexion facility is in compliance with requirements of the Act and its implementing regulations. Section 114(a) of the Act, 42 U.S.C. § 7414(a), authorizes the Administrator of the EPA to require any person who owns or operates an emission source, whom the Administrator believes may have information necessary for the purposes set forth in Section 114(a), or who is subject to any requirement of the Act, to provide such information as the Administrator may reasonably require for the purpose of carrying out any provision of the Act. This authority has been duly delegated to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review and follow the instructions in and, where required, complete the following enclosures: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Information Request (Enclosure 4), and Statement of Certification (Enclosure 5).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after Hexion's receipt of this letter as determined by the date of the EPA's electronic mail transmitting this request unless the EPA, for good cause shown, extends in writing the deadline for responding to this request. This information must be submitted electronically to the following individual:

David Lloyd  
Environmental Scientist  
Air Enforcement Branch  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
Lloyd.david@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) issuance of an order requiring compliance with this request; (2) issuance of an administrative penalty order pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d); (3) commencement of a civil action in accordance with Section 113(b) of the Act, 42 U.S.C. § 7413(b); and/or (4) any other action authorized under the Act.

Under Section 114(c) of the Act, 42 U.S.C. § 7414(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA that involves trade secrets and which Hexion regards as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 114(c) of the Act, 42 U.S.C. § 7414(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to Hexion. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of Hexion. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact David Lloyd, Region 4 Air Enforcement Branch, at (404) 562-9216 or by email at [lloyd.david@epa.gov](mailto:lloyd.david@epa.gov) or Ellen Rouch, Region 4 Office of Regional Counsel, at (404) 562-9575 or by email at [Rouch.ellen@epa.gov](mailto:Rouch.ellen@epa.gov).

Sincerely,

Carol L. Kemker  
Director  
Enforcement and Compliance Assurance Division

Enclosures

cc: Michael Pjetraj, NC DENR  
[michael.pjetraj@ncdenr.gov](mailto:michael.pjetraj@ncdenr.gov)

## **ENCLOSURE 1**

### **Instructions**

Each of the following instructions applies to each and every Request contained in Enclosure 4.

1. Provide a separate response to each and every Request, and each and every subpart of a Request.
2. If the company has no responsive information or documents pertaining to a particular Request, submit an affirmative statement and explanation.
3. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one (1) version of the document needs to be provided.
4. The company shall submit documents in Portable Document Format (PDF) or in any other electronic format as specified in Enclosure 4. Do not create separate PDF files for each page of a single document.
5. Where a Request requires the submission of an electronic spreadsheet, please provide the spreadsheet as an unlocked, Microsoft Excel file. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Microsoft Excel.
6. Identify each person whom you relied on or consulted with in preparing your responses to each Request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
7. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
8. Please submit your response to this information request to the EPA electronically. You may submit your response using either of the following options: (A) As an attachment sent via email to Mr. David Lloyd at [Lloyd.david@epa.gov](mailto:Lloyd.david@epa.gov); or (B) by requesting a link from the EPA for a secure file transfer site where you may upload your response. You may request a link by sending an email to David Lloyd at [Lloyd.david@epa.gov](mailto:Lloyd.david@epa.gov).
9. Please do not submit compressed files (.zip) via email. If you wish to submit compressed files, please select option B.

10. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA by email (option A). If you are submitting documents that you have claimed as CBI, please upload them to the EPA's secure file transfer site (option B).
11. Prior to submitting your response, please send an email to David Lloyd at [lloyd.david@epa.gov](mailto:lloyd.david@epa.gov) indicating which option or combination of options (A and/or B) you have selected to submit your response to this request.

## ENCLOSURE 2

### **Definitions**

1. The terms **“document”** and **“writing”** and the plural forms thereof shall mean all written, recorded or graphic matters, however produced or reproduced, of every kind and description, pertaining in any way to the subject matter of this request, and which are in the company’s possession, custody or control or to which the company has or has had access. The terms “document” and “writing” shall include, but are not limited to: any receipts; invoices; shipping records; purchase orders; purchase records; books; pamphlets; periodicals; memoranda (including those of telephone or oral conversations); contracts; correspondence; agreements; applications; financial records; security instruments; disbursements; checks; bank statements; time records; accounting or financial records; notes; diaries; logs; facsimiles (faxes); telegrams or cables prepared, drafted, received or sent; electronic mail (email), whether drafted, received or sent; tapes; transcripts; recordings; minutes and notes of meetings; directives; work papers; charts; drawings; prints; flow sheets; photographs; infrared camera recordings; film; computer printouts; x-ray photographs; advertisements; catalogs; data; sampling reports, plans, protocols, reports, analyses; or any handwritten, recorded, transcribed punched, taped, filmed or graphic matter, however produced or reproduced.
2. The terms **“person”** and/or **“persons”** shall have the meaning set forth in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent or employee thereof.
3. The terms **“relate to”** and/or **“pertain to”** (or any form thereof) shall mean constituting, reflecting, representing, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating or relevant to.
4. The terms **“you”** and/or **“your”** shall mean Hexion, and all its agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Hexion, or who may have obtained information for or on behalf of Hexion.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

### ENCLOSURE 3

#### **Confidential Business Information (CBI) Assertion and Substantiation Requirements**

##### **A. Assertion Requirements**

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Act, and 40 C.F.R. Part 2, Subpart B. The EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as “Personal Privacy Information” given that disclosure of such information to the general public may constitute an invasion of privacy.

##### **B. Substantiation Requirements**

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B.<sup>1</sup> You bear the burden of substantiating your confidentiality claim and must satisfactorily show, among other things, that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that the information is not, and has not been, reasonably obtainable by legitimate means without your consent. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering several questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled

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<sup>1</sup> 40 C.F.R. § 2.208(e) conflicts with the holding in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2366 (2019) (*Argus Leader*). In light of the *Argus Leader* decision, the Agency will not consider 40 C.F.R. § 2.208(e) in this determination. The Agency anticipates amending 40 C.F.R. § 2.208 so that it is consistent with the decision in *Argus Leader*.

to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied.. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
8. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.

9. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
10. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is *not* entitled to confidential treatment under Section 114(c) of the Act, 42 U.S.C. § 7414(c) or 40 C.F.R. Part 2.

“Emission data” means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Information designated confidential will be disclosed by the EPA only to the extent allowed by, and by means of procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.



## **ENCLOSURE 4**

### **Information Request Questions**

Please provide the following information using the instructions and definitions provided in Enclosures 1 and 2. A response must be sent to the EPA no later than 30 calendar days after Hexion receives this request.

1. An equipment list identifying each piece of equipment included in the following Risk Management Program (RMP) covered processes:
  - a. Formaldehyde Plant/Storage (RMP Process ID No. 1000083206)
  - b. Hexamine Process w/ Ammonia Storage (RMP Process ID No. 1000083206)
2. A detailed, narrative description of how Hexion determined it had more than a threshold quantity of a regulated substance in a process, including detailed supporting calculations for the regulated substances in following RMP covered processes:
  - a. Formaldehyde Plant/Storage (RMP Process ID No. 1000083206)
  - b. Hexamine Process w/ Ammonia Storage (RMP Process ID No. 1000083206)
3. Maximum intended inventory calculations for formaldehyde, aqueous ammonia, and anhydrous ammonia for the following RMP covered processes:
  - a. Formaldehyde Plant/Storage (RMP Process ID No. 1000083206)
  - b. Hexamine Process w/ Ammonia Storage (RMP Process ID No. 1000083206)
4. Management of Change (MOC) forms and all other documents associated with MOC-071-10-00010.
5. Management of Change (MOC) forms and all other documents associated with MOC-071-14-00062.
6. A detailed description of the changes to the Hexamine Process that are associated with the July 2020 revisions to the *Hexamine Distillation Feed Tank P&ID (Drawing No. H-00052-M-02)* (including all work performed, and all other documents related to the changes).
7. A description of how Hexion determined the Condition Monitoring Locations (CMLs) for the following:
  - a. Formaldehyde Plant/Storage (RMP Process ID No. 1000083206)
  - b. Hexamine Process w/ Ammonia Storage (RMP Process ID No. 1000083206)
8. For the Hexamine Process w/ Ammonia Storage (RMP Process ID No. 1000083206): drawings indicating CMLs for the Distillate Feed Tank, the Distillate Feed Tank Pump, and all piping circuits located between the Distillate Feed Tank Pump and the Air Stripper.

9. All documents associated with the last two rounds of American Petroleum Institute, **API 570**, *Piping Inspection Code: In-Service Inspection, Repair, and Alteration of Piping Systems* mechanical integrity 10-year external visual inspection and thickness measurements for the Hexamine Process w/ Ammonia Storage (RMP Process ID No. 1000083206): Distillate Feed Tank, the Distillate Feed Tank Pump, and all piping circuits located between the Distillate Feed Tank Pump and the Air Stripper.

**ENCLOSURE 5**

**STATEMENT OF CERTIFICATION**

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)